

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 05-2395

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United States of America,

Appellee,

v.

Mariano Duran,

Appellant.

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Appeal from the United States  
District Court for the  
Southern District of Iowa.

[UNPUBLISHED]

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Submitted: October 25, 2005

Filed: November 4, 2005

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Before MELLOY, MAGILL, and GRUENDER, Circuit Judges.

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PER CURIAM.

Mariano Duran appeals the district court's<sup>1</sup> judgment denying his 28 U.S.C. § 2255 motion, wherein Duran sought relief based on the Supreme Court's holding in Blakely v. Washington, 542 U.S. 296 (2004). The district court granted a certificate of appealability on whether the rule announced in Blakely applies retroactively to cases on collateral review, and the Supreme Court thereafter issued its decision in United States v. Booker, 125 S. Ct. 738 (2005). Because neither

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<sup>1</sup>The Honorable Ronald E. Longstaff, Chief Judge, United States District Court for the Southern District of Iowa.

decision applies retroactively to final convictions, see Never Misses A Shot v. United States, 413 F.3d 781, 783-84 (8th Cir. 2005) (per curiam), we affirm the judgment of the district court. See 8th Cir. R. 47B. Counsel's motion to withdraw is granted, and Duran's pro se motion for new counsel is denied.

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